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10/815,200	03/31/2004	Dan Seeman	ORACL-01512US0	9498

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EXAMINER	
VU, TUAN A	
ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/815,200	SEEMAN ET AL.	
	Examiner	Art Unit	
	TUAN A. VU	2193	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *6/5/08*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *6/5/08*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to the Applicant's response filed 6/05/08.

As indicated in Applicant's response, claims 1, 8, 15 have been amended. Claims 1-21 are pending in the office action.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re Thorington,* 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 4, 11, 18 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 4, 11, 18 of copending Application No. 10,814,563 (hereinafter '563).

As per instant claim 4, '563 claim 4 recites interpretive engine that includes a plurality of DLLs, wherein the engine receives commands in a test case, loads required libraries and invokes software to perform testing operations on the GUI interface, wherein the engine *loads required libraries to map the generic interface command to tool-specific testing operations ... translating generic interface commands to tool-specific commands*; wherein said commands are '*abstractions independent of any tool-specific language*'; a GUI editor/wizard to allow user to enter to edit and create test case input. Even though '563 does not explicitly recite 'function

library'. However based the '563 reciting of 'load … libraries to map' directives received from user at the interpretive engine 'into tool-dependent codes', the provision of DLLs as in '563 amounts to reusable libraries ready for a given executing application or environment, and it would be obvious for one skill in the art to use reusable libraries to enable loading of said DLLs as a function library (e.g. of tool-specific source) against which to do the mapping of 'generic interface commands' into 'tool-specific commands' as construed from above. That is, function library would have been an obvious variation of providing a dynamic link library to correspond user's non-language specific directives into native code specific to the test operation; i.e. this would support code generation for the tool-specific testing or debugging application as recited in '563 claim 4.

Likewise, **instant claims 11, 18** are conflicting with the subject matter of '563 claims 11, 18, respectively, by virtue of their being mere Beauregard versions of respective claims 4 (instant and '563) as set forth above.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 8-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention; that is, claims 8 and 15 recite the limitation "the generic interface commands" (lines 5, 8). In light of the 'generic test commands or directives' being introduced earlier in the claims, there is insufficient antecedent basis for this 'generic interface commands/directives' limitation in the claim(s). The limitation will be treated as mere GUI commands.

Claims 9-14, 16-21 are rejected for not curing to this lack of antecedent basis.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Mercury Interactive, "LoadRunner -Creating Vuser Scripts Windows and Unix Version 7.51", ch. 1-4, 10-11, 22, *Mercury Interactive Corporation 2002* (hereinafter LoadRunner) URL: <www.genesis.co.kr/image/procuct/pds/LoadRunner/Manual/LoadRunner_Generator.pdf>

As per claim 1, LoadRunner discloses a system that provides a generic user interface testing framework (e.g. ch. 2: pg. 5-8), comprising a computer including computer readable medium, and a processor thereon:

an interpretive engine, executing on the computer, that receives and translates generic interface commands, which are abstractions independent of any tool-specific scripting language (ch. 3: steps 1-19 - pg. 26-32 –Note: user entering of text into abstracted GUI box or field reads on Gui events or user directives being independent for actual scripting language rules) from a tester (e.g. ch. 3: Recording Vuser script, step 1-19 -pg. 26-32; ch. 2: Running Vuser: *it is processed by an interpreter* – pg. 15-16); and

a function library for mapping the generic interface commands to native language (e.g. *number of functions ... inserted into the script* - ch. 2, pg. 7-8; ch. 11: *JDK libraries or custom classes* – pg. 155; ch. 22: *object, interfaces, libraries* -pg. 298; ch. 22: *select desired library,*

exclude a type of library - pg. 304-309 - Note: interface interpreting user creation of a VUscript using Vuser by listing and providing objects/functions – e.g. entering text names of libraries – into a GUI text fields **reads on** mapping generic interface commands to libraries-based specific functions for tool-dependent codes by a Vuser Record utility – e.g. JDK *package*, COM library type specific: ch. 3, pg. 160, ch. 11, pg. 304; see *LR functions, protocol-specific* - ch. 2, pg. 14) understood by a particular test software tool; and,

wherein the interpretive engine uses the function library to map the generic interface commands (ch. 3: pg. 26-32) into test software tool-dependent codes (e.g. ch. 2: pg. 15-16; ch. 22: *object, interfaces, libraries* -pg. 298; ch. 22: *select desired library, exclude a type of library* - pg. 304-309) that are then passed to the test software tool (e.g. ch. 2, pg. 5-7).

As per claims 2-3, LoadRunner discloses wherein the system includes the test software tool stored locally on the same computer or machine (e.g. *start Recording, end Recording* - ch. 3: pg. 26-34; ch. 22, pg. 307); wherein the test software tool is stored at another computer or machine (e.g. ch. 2: *by executing server API* – pg. 15 top; ch. 10).

As per claims 4-5, LoadRunner discloses wherein the editor provides a graphical interface to allow the tester to enter said test commands (ch. 3: pg. 26-34; ch. 22, pg. 304-309), wherein the editor communicates the test commands as a script of directives (e.g. ch. 2, 3; ch. 4).

As per claim 6, LoadRunner discloses wherein the test commands can be created offline and subsequently communicated to the interpretive engine (e.g. *remote TestDirector* - ch. 10, pg. 146-147 - Note: processing LoadRunner directives then connecting with TestDirector reads on offline LoadRunner script subsequently via connection to remote TestDirector to have TestDirector to interpret LoadRunner created script language).

As per claim 7, LoadRunner discloses wherein the test software tool can be removed and replaced with another test software tool (ch. 22: *select desired library, exclude a type of library* - pg. 304-309).

As per claim 8, LoadRunner discloses a method for providing a generic user interface testing framework (e.g. ch. 2: pg. 5-8), comprising the steps of:

allowing a tester to enter a number of generic test commands which are abstractions independent of any tool-specific scripting language (ch. 3: steps 1-19 - pg. 26-32) or directives via an editor or interface (ch. 2: Recording Vuser script, step 1-19 -pg. 26-32; ch. 2: Running Vuser: *it is processed by an interpreter* – pg. 15-16); and

translating, using an interpretive engine, the generic interface commands received from the tester, and mapping, using a function library, the generic commands to native language understood by a particular test software tool (refer to claim 1),

wherein the interpretive engine uses the function library to map the generic interface commands into tool-dependent codes that are then passed to the test software tool (refer to claim 1).

As per claims 9-10, refer to claims 2-3 respectively.

As per claims 11-12, refer to claims 4-5 respectively.

As per claims 13-14, refer to claims 6-7 respectively.

As per claim 15, LoadRunner discloses a computer readable medium including instructions stored thereon which when executed cause the computer to perform the steps of:

allowing a tester to enter a number of generic test commands which are abstractions independent of any tool-specific scripting language (refer to claim 1) or directives via an editor or interface; and

translating, using an interpretive engine, the generic interface commands from the tester, and mapping, using a function library, the generic commands to native language understood by a particular test software tool (refer to claim 1),

wherein the interpretive engine uses the function library to map the generic interface commands into test software tool-dependent codes (refer to claim 1) that are then passed to the test software tool;

all of which having been addressed in claim 8 above.

As per claims 16-17, refer to claims 2-3 respectively.

As per claims 18-19, refer to claims 4-5 respectively.

As per claims 20-21, refer to claims 6-7 respectively.

Response to Arguments

8. Applicant's arguments filed 6/05/08 have been fully considered but they are not persuasive. Following are the Examiner's observation in regard thereto.

35 USC § 102 Rejection:

(A) Applicants have submitted that LoadRunner discloses recording Java Language Vuser scripts, a pure java script enhanced with LoadRunner specific Java functions, including Vuser-specific and protocol-specific functions to the type of application being tested (Appl. Rmrks pg. 9); and this does not disclose 'generic interface commands that are abstractions independent of any tool-specific scripting language' as recited in claim 1 (Appl. Rmrks pg. 10, top pg. 11).

Broad reasonable interpretation of the term 'abstractions' has it that software-implemented entities that are not compliant to any script language grammar would be considered meeting this 'abstractions' limitation. A developer's interface such as LoadRunner Recording utility is clearly a interpreting engine that converts user actions or screen events into underlying semantics and software functions. Hence, the rejection has interpreted the above generic commands as **GUI field-based entries**, text segments or iconic type of commands made by a developer's action or clicking – which are independent from grammar of any script language; whereas developers' entries enable language-specific constructs to be matched with the underlying software language specific or function library via the Recording capability of Vuser facility (refer : pg. 26-32, ch. 2) to implement code directed for a testing functionality. For the sake of argument only, it is deemed that the above generic commands or abstractions are met by the cited portions. The argument is not persuasive, because nothing in the language recited as 'abstractions independent of any tool-specific scripting language' would preclude the GUI-based entries as cited from meeting the language; i.e. Applicants not able to prove that the user's selection or clicking or typing of text are very specific to grammar compliancy of a given scripting language. Besides, since the limitation is newly added, the argument is largely not responsive to the previous Office Action, hence **clearly moot**.

(B) Applicants have submitted that claims 2-7, 9-14, 16-21, and the same subject matter in claims 8, 15 are allowable in view of the above argument regarding *LoadRunner* (Appl. Rmrks, pg. 10-11). The dependency as proffered would have to be referred back to the Response set forth in section A above. In all, the claims stand rejected as set forth in the Office Action, because (i) the arguments are not exactly responsive to the Previous Office Action; (ii) the

language of the claim is not sufficient to dictate a particular requirement that would prevent LoadRunner, based on one of ordinary skill in the art (broad reasonable) interpretation, from matching the language in question. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan A Vu whose telephone number is (571) 272-3735. The examiner can normally be reached on 8AM-4:30PM/Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lewis Bullock can be reached on (571)272-3759.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-3735 (for non-official correspondence - please consult Examiner before using) or 571-273-8300 (for official correspondence) or redirected to customer service at 571-272-3609.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/ Tuan A Vu /

Primary Examiner, Art Unit 2193

August 22, 2008